

BEFORE THE
FAIR POLITICAL PRACTICES COMMISSION
STATE OF CALIFORNIA

In the Matter of:

MANSON WONG,

Respondent.

Case No. 97/655

OAH No. N2001090346

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on January 22, 23 and 24, 2002.

Melodee A. Mathay, Senior Commission Counsel, represented Complainant.

Respondent Manson Wong was present and represented himself.

Evidence was received and the matter was submitted for decision on January 24, 2002.

SUMMARY AND ISSUE

Manson Wong supported the re-election of Frank Jordan as Mayor of San Francisco in 1995. He solicited support for Mayor Jordan, in part by telephoning people he knew. In addition, he purchased checks on behalf of eight different friends or family members and delivered them to campaign staff. He informed the campaign that the contributions were made by those persons. The issue is whether Mr. Wong was the true source of funds for the contributions, thereby violating the Political Reform Act.

FACTUAL FINDINGS

1. Complainant Mark Krause, Executive Director of The Fair Political Practices Commission, filed the Accusation in his official capacity.

2. In 1995¹, Manson Wong ("Respondent") resided in the City and County of San Francisco. Frank Jordan was the incumbent mayor.

¹ All dates are in 1995, unless specified otherwise.

The general mayoral election on November 7th was inconclusive. A run-off was conducted on December 12th between Mr. Jordan and Willie Brown.

Two committees- the "Committee to Elect Frank Jordan Mayor" (ID# 910089) (CEFJM) and the "Committee to Re-Elect Frank Jordan Mayor" (ID# 943426)- were in place to receive campaign contributions.

3. San Francisco had an ordinance that limited campaign contributions to \$500.00 per person for the general election. An additional contribution of \$250.00 could be made if there was a run-off. The total amount an individual or business could contribute to a particular candidate during a single election cycle was therefore \$750.00².

4. In 1995, Respondent was a director, officer and/or major shareholder of two California corporations - CHW Purveyors, Inc. and North Pac Capital, Inc. In addition, he was the general partner of North Pac Capital, L.P. Respondent made three contributions, one in each entity's name, to CEFJM. Each contribution was for \$500.00.

5. On October 31st, Respondent cashed a business check for \$8,800.00 at a Bank of America branch. At the same branch, he purchased, using cash, eight³ official bank checks. Each check was payable to "Frank Jordan for Mayor" and listed himself as the purchaser on behalf of another. Each person was a friend, family member or business associate of Respondent's. The checks were picked up by a campaign staff member and delivered to CEFJM the same day.

Eight days later, Respondent filled out contributor information cards and gave them to CEFJM. The information Respondent provided included a name, occupation and address. Some of the information provided was incorrect.

CEFJM reported each of the contributions, along with the information provided by Respondent, in the campaign statement it filed for the November 26, 1995 through December 31, 1995 reporting period.

6. Respondent was not paid in advance by any of the alleged contributors. In some cases, he claimed he was reimbursed subsequently in cash. In other cases, he claimed that the person owed him money and that he subsequently forgave a portion of the pre-existing debt. Neither Respondent nor any of the alleged contributors provided any written documentation to support reimbursement or debt forgiveness.

Commission investigators interviewed Respondent twice. He told them conflicting stories about some of the contributions. Respondent also supplied written information to the investigators. He prepared written statements for some of the alleged contributors to sign.

² See San Francisco Administrative Code sections 16.508(b) and 16.509(b).

³ Respondent purchased a total of sixteen checks, however, only eight are included in the Amended Accusation.

Some of the written statements differed in factual content from the oral statements given by the alleged contributors to investigators.

7. It was proven that Respondent was the true source of funds for the contributions he made in the name of the following persons:

- A. Kee Cheng- \$500.00. and
- B. Mei-Lin Cheng- \$500.00.

Dr. Kee Cheng and his wife Mei-Lin Cheng reside in Hillsborough. Dr. Cheng and Respondent were both investors in a company that was in bankruptcy in 1995. They both belonged to a creditor's committee. In addition, Dr. Cheng had treated Respondent some years before.

Respondent telephoned Dr. Cheng and asked him to support Frank Jordan. Dr. Cheng told Respondent that he and his wife could be listed as supporters. Respondent did not ask Dr. Cheng to write a check to make a donation. Dr. Cheng was not aware of the contributions before they were made and did not agree to reimburse Respondent in any manner.

The first time Mei-Lin Cheng heard about the contribution was in 1998 when informed by her husband of a visit by Commission investigators.

- C. Mark Levinson- \$400.00.

Mr. Levinson is a real estate salesperson. Respondent called Mr. Levinson and asked him to contribute to Mr. Jordan's campaign. Mr. Levinson subsequently wrote a check to the campaign for \$100.00. Mr. Levinson did not authorize Respondent to make an additional contribution in his name, nor did he reimburse Respondent for the \$400.00 additional contribution. Mr. Levinson was unaware of the additional contribution until contacted by Commission investigators in 1998.

- D. Chek Tan- \$300.00.

Mr. Tan is a self-employed certified public accountant. He has done accounting work for Respondent, but they have no current business relationship. Respondent telephoned and asked him to contribute to Frank Jordan's campaign. Mr. Tan contributed \$200.00 by personal check in October. He was not aware of the additional \$300.00 until contacted by Commission investigators. He did not reimburse Respondent for the additional contribution made in his name.

- E. Annie Wong- \$500.00.

Ms. Wong is a licensed real estate sales agent and the ex-wife of Respondent. The first time she learned of the contribution Respondent made in her name was when contacted by Commission investigators in 1998. She was surprised. Despite signing an affidavit stat-

ing that she reimbursed Respondent by reducing "past debts," she does not really consider Respondent to be indebted to her.

F. Francis Wong- \$500.00.

Dr. Wong is a dentist in private practice and Respondent's brother. He discussed supporting Frank Jordan with Respondent. He did not authorize the purchase of a check on his behalf and did not repay Respondent directly. Dr. Wong first learned about the contribution when contacted by Commission investigators. Dr. Wong testified that Respondent owed him money at the time and that they subsequently agreed to reduce this debt by \$500.00. Currently, Respondent owes him about \$100,000.00 for past business arrangements or family loans. Dr. Wong testified that there are no records due to the familial relationship.

G. Boscoe Yeung- \$500.00.

Mr. Yeung is a friend of Respondent's and the owner and manager of the Hong Kong Lounge. When contacted by investigators, Respondent stated that he did not reimburse Respondent for a contribution. He told the investigators about a fundraising dinner that he attended, but did not pay for. Respondent later denied that such a dinner occurred. At hearing, Mr. Yeung stated that he reimbursed Respondent in cash from the register at his club, but he was not a credible witness.

H. Amy Zhang- \$500.00.

Ms. Zhang was a friend of Respondent's. In 1995, she was employed as a babysitter. Respondent made a contribution in her name without her prior knowledge. Ms. Zhang first learned of the contribution when contacted by Commission investigators in 1998. She did not reimburse Respondent for the contribution.

8. Finding 7 is based upon an assessment of the credibility of Respondent and each alleged contributor. The credibility assessment included but was not limited to: statements made to investigators, signed statements, letters or affidavits, demeanor while testifying and relationship to Respondent.

Respondent's Position

9. Respondent testified that he was not active in politics but was asked to help raise money for Frank Jordan. He stated that he chose the amount of \$500.00 because it was not too big, it was not too small, and it was the right and proper amount to support Mayor Jordan. He stated that when he telephoned people, many said he could use their name, but would say he could make up the difference between what they paid and \$500.00. They are very busy people. He didn't think of asking them to pay the campaign directly.

Respondent was leaving on a business trip on October 31. He purchased all of the checks within an hour and one half or so. He did not contact anyone that day--it was probably a few days before.

After October 31, someone from the campaign called and said they needed some declarations on the disclosure statements. Respondent testified that he does not keep track of anything, and does not have very good references to time. He filled out all the disclosure forms from memory. He was also in a hurry, as he was leaving on another trip. He filled them out on the roof of his car, while the staff person waited for them. Or perhaps he faxed them. He did not want to bother the contributors with doing this. Respondent testified that he did not intend to mislead--that he simply made mistakes with some of the information.

10. After contact from investigators, Respondent prepared statements for some of the contributors to sign. Respondent took different versions to Mr. Tan's office, so that he could choose which one he preferred to sign. He told everyone that he was going to submit the declarations to the Commission and that hopefully the whole problem would go away. He also gave investigators some address corrections.

Respondent told investigators that Ms. Zhang reimbursed him in cash. By "cash" he meant her hosting him on a visit to China. He felt legally obligated to pay her because he was morally obligated to pay. He keeps a ledger of these types of debts in his head. Regarding the contribution he attributed to Francis Wong, Respondent stated that money flows freely between brothers. His family does not keep track of financial transactions between family members. Regarding the Cheng's, Respondent claimed the contribution was legitimate because Dr. Cheng owed money to a creditor's committee that Respondent administered.

11. Respondent testified that the investigators were ignorant of common business practices among the Chinese community. He implied that this negatively affected the integrity of the investigation. In addition, for he and his family and friends, \$500.00 in cash is not a very large amount and not having records regarding such an amount is not unusual. If he knew the case was going to be pursued, he would have been more careful. He also stated that he is not a detail person.

APPLICABLE LAW AND REGULATION

1. In 1974 California voters passed an initiative measure entitled "The Political Reform Act of 1974." The Act was codified in the Government Code beginning at section 81000. The voters specifically declared that previous law had been inadequate and that the new law should be liberally construed. One of the purposes of the Act was to provide for the disclosure to voters of a candidate's monetary supporters. Accordingly, section 84301⁴ states:

⁴ All section references are to the Government Code.

No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

Contributions can be made on another's behalf; however, the intermediary or agent must disclose:

...to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation and the name of employer, if any, or principal place of business if self-employed, of the other person. (See section 84302.)

In turn, the campaign must disclose the information reported to it by filing campaign statements. (See sections 84000-84211.)

2. Enforcement of the Act is vested in the Fair Political Practices Commission. (see Reg.⁵ sec. 18361.) Once the executive director has found probable cause to believe a violation has occurred, an accusation may be prepared and served. If a respondent desires a hearing, one will be held before an administrative law judge. The standard of proof is preponderance of the evidence.

3. Section 83116(c) provides for a monetary penalty of up to \$2,000.00 for each violation. Specific factors must be considered in determining the amount of the penalty:

- A. Seriousness of the violation;
- B. The presence or absence of any intention to conceal, deceive or mislead;
- C. Whether the violation was deliberate, negligent or inadvertent;
- D. Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency in a manner not constituting a complete defense under Government Code section 83114(b);
- E. Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
- F. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

(See Reg. sec. 18361(4)(A-F).)

⁵ All regulation references are to Title 2, Division 6 of the California Code of Regulations.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 7, it is concluded that Respondent committed eight violations of Government Code section 84301.

2. Full and accurate disclosure to the public of the source of campaign contributions is at the heart of the Fair Political Practices Act. Violations grounded in failure to disclose are therefore serious.

In this matter, Respondent used his own funds to purchase checks in the names of others. There was no reason to do so except to circumvent state law and city ordinances. The violations were committed deliberately and with intent to deceive or mislead.

When Commission investigators brought the matter to Respondent's attention, he did not cooperate in a genuine manner. Although he submitted information that was somewhat more accurate, he also gave conflicting statements regarding reimbursement and other matters. Further, he testified at hearing that he prepared statements for the alleged contributors to sign and that he gave only general information to investigators, in the hope that the matter would "go away."

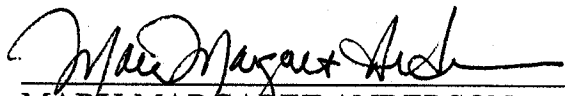
Although these are apparently Respondent's only violations of the Act, there are no meaningful extenuating or mitigating circumstances. To the contrary, Respondent went to great lengths after the fact to attempt to legitimize his actions by constructing cover stories. His conduct was in direct opposition to the spirit as well as the specifics of the Political Reform Act.

For all of the above reasons, the maximum penalty of \$16,000.00 (\$2,000.00 for each violation) is justified and appropriate.

ORDER

Manson Wong shall pay \$16,000.00 to the General Fund of the State of California.

DATED: 2-25-02


MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings